



April 19, 2019

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Written *Ex Parte* Presentation
IB Docket No. 18-315

Dear Ms. Dortch:

EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (together with their affiliates, “EchoStar”) submit this *ex parte* response to reply comments in the above-referenced rulemaking to revise the Commission’s rules governing earth stations in motion (“ESIMs”) to permit communications with non-geostationary orbit (“NGSO”) satellites in the fixed-satellite service (“FSS”).¹ Specifically, EchoStar seeks to clarify the record and address objections raised by Boeing, SES/O3b, Telesat, and Viasat (collectively, “Opponents”) against its proposal to accord co-equal interference protection status to ESIM operations with NGSO FSS systems vis-à-vis incumbent ESIM and other earth station operations with GSO FSS systems in the 18.8-19.3 GHz and 28.6-29.1 GHz bands.²

As a threshold matter, EchoStar’s co-equal status proposal is well within the scope of this rulemaking, contrary to Telesat’s argument.³ The *NPRM* expressly seeks comment on allowing ESIM communications with NGSO FSS systems *on a primary basis* in the 18.8-19.3 GHz and 28.6-29.1 GHz bands,⁴ thus inviting alternative proposals for allowing ESIM operations on a different interference protection basis. Consequently, Telesat’s suggestion to preclude EchoStar’s co-equal status proposal from consideration

¹ See *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations*, Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (2018) (“*NPRM*”).

² See Reply Comments of the Boeing, IB Docket No. 18-315 (Mar. 13, 2019) (“Boeing Reply Comments”); Reply Comments of SES Americom, Inc. & O3b Limited, IB Docket No. 18-315 (Mar. 13, 2019) (“SES/O3b Reply Comments”); Reply Comments of Telesat Canada, IB Docket No. 18-315 (Mar. 13, 2019) (“Telesat Reply Comments”); Reply Comments of Viasat, Inc. IB Docket No. 18-315 (Mar. 13, 2019) (“Viasat Reply Comments”); see also Comments of EchoStar, IB Docket No. 18-315, at 4 (Feb. 11, 2019).

³ See Telesat Reply Comments at 2-3.

⁴ See *NPRM* ¶ 10.

in this proceeding would unfairly prejudge the Commission's decision and should be categorically rejected.

Moreover, contrary to Opponents' claims,⁵ EchoStar's proposal is consistent with the Commission's Ka-band plan and spectrum allocations.⁶ The *NGSO FSS Order* revised the Commission's Ka-band plan and spectrum allocations to permit GSO FSS operations in the 18.8-19.3 GHz and 28.6-29.1 GHz bands on a secondary basis, while reaffirming NGSO FSS operations in those frequency bands on a primary basis.⁷ Opponents argue that the Commission's findings in the *NGSO FSS Order* regarding primary NGSO FSS use of spectrum apply to both ESIMs and fixed earth stations, but fail to cite anything in the order or in any existing Commission rules permitting NGSO ESIM operations.⁸ Indeed, as the *NPRM* notes, the *NGSO FSS Order* did not adopt or even consider rules permitting ESIM operations with NGSO FSS systems in the 18.8-19.3 GHz and 28.6-29.1 GHz bands.⁹ Thus, contrary to Opponents' suggestion, the Commission adopted its findings in the *NGSO FSS Order* with the understanding that its existing rules do not broadly define or authorize NGSO FSS to include ESIM operations.¹⁰

Furthermore, the prospect of millions of new NGSO ESIM devices will certainly complicate the operating environment for, and increase the risk of interference to, incumbent NGSO and GSO operations in the 18.8-19.3 GHz and 28.6-29.1 GHz bands. Although incumbent GSO FSS operations are permitted in the bands on a secondary basis, the feasibility of such operations nonetheless has been premised on successful sharing with NGSO fixed earth stations, and not with NGSO ESIMs. Thus, absent technical support in the record, Opponents cannot presume that NGSO ESIMs have an

⁵ See Telesat Reply Comments at 2-3; SES/O3b Reply Comments at 2-4; Boeing Reply Comments at 3.

⁶ See *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809, App. B (Adopted Ka-band Plan) (2017) ("*NGSO FSS Order*").

⁷ See *id.* ¶ 14.

⁸ See SES/O3B Reply Comments at 4; Telesat Reply Comments at 2-3; Boeing Reply Comments at 3.

⁹ See *NPRM* ¶ 5.

¹⁰ See, e.g., 47 C.F.R. §§ 25.103 (defining FSS as a "radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas") and 2.106 n.NG527A (stating that ESIMs are an application of FSS and may be authorized to communicate with geostationary satellites).

“inherent ability ... to operate within the same parameters and in a manner that is no more interfering than a fixed earth station.”¹¹

Consequently, EchoStar urges the Commission to accord co-equal interference protection status to NGSO ESIM operations vis-à-vis incumbent GSO FSS operations in the 18.8-19.3 GHz and 28.6-29.1 GHz bands.

Please direct any questions regarding this matter to the undersigned.

Respectfully Submitted,

/s/ Jennifer A. Manner

Jennifer A. Manner

Senior Vice President, Regulatory Affairs

cc: Troy Tanner
Jennifer Gilsenan
Stephen Duall
Cindy Spiers
Sankar Persaud

¹¹ Viasat Reply Comments at 3.